



# BULLETIN

Volume 10, Issue 1  
October, 2004

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## RISK MANAGEMENT DIVISION:

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### *Risk Management Division*

#### *Mission Statement*

*To protect the assets of the State of North Dakota - its people, property, and financial resources - so that the State can continue to meet its obligations to its citizens.*

RM Fund—\$130,396 of a Potential  
\$220,406 Discount Claimed

The 2004 discount application process is nearly completed. The process has been quite a challenge this year, for both the RM staff and for the applicants. Unfortunately, from comments we received it appears that some applicants viewed the process as a means of punishment or punitive measures by Risk Management; a negotiation tool; or an exercise in paperwork alone in order to achieve the bare minimum standard and discount.

When the RM Fund discount program was

established in 2002, Risk Management had numerous intentions for the program such as: developing a strong foundation for entity loss control programs; promoting safety for the prevention of incidents and accidents to both people and property; reducing losses and protecting the State's assets through solid risk management; creating consistency among the State entities; recognizing and rewarding the entities for their efforts to comply with the program, in other words, for "doing the right thing," and providing a means to lower contributions and create contribution savings for the entity.

(Continued on page 2)

## Standard State Contract Indemnification and Insurance Provisions Revised

~ The Risk Management Division, working with the Office of the Attorney General, has revised the State's standard recommended insurance and indemnification provisions to reflect the current coverages available in the commercial insurance market. The changes that are reflected in the enclosed revisions to Section 5 of the Risk Management Manual will also be made in the Attorney General's Contract Manual and in the Procurement Office's recommended contract provisions. Contact our office if you have any questions concerning these revisions.

*Note— we have provided examples of completed Certificates of Insurance and an Additional Insured Endorsement that coincide with the new recommended insurance language. Another tool to assist you with contract administration is the RM Guidelines to Managing Contractual Risk on the Procurement Office's website:*  
<http://www.state.nd.us/csd/spo/resources.html>

## Revisions to the Risk Management Manual



Remove Pages:	Replace with Pages:
Page 2.6-3	Page 2.6-3
Pages 5.1-8 to 5.1-25	Pages 5.1-8 to 5.1-25

(continued from page 1)

In the infancy of the program, the RM reviews were fairly lenient and flexible. As time passed, in order to build a more structured program, we continually provided updates on the discount criteria and application shortfalls.

In addition to the natural evolution of the program, the Federal Government began monitoring the Risk Management Fund to determine whether or not federal dollars were being appropriately used. The Feds pay special attention to the discount program and require justification for the allowed discounts. In other words, they review documentation. We have to be able to document that state entities have effective loss control practices in place that will result in dollar savings to the Fund in order for the Feds to sign off on the program—a win, win for everyone involved.

As the reviews became more stringent state entities were notified of the changes being implemented. Our tools for that notification—the same tools that we use for providing any Risk Management updates or changes—are through the Risk Management Bulletins, our annual seminars, the facility audits, and most recently through the Risk Management website.

This year's reviews garnered a number of interesting comments and questions, such as — *"Come on!" "We do all that, it's just not in writing / but we don't have a loss control committee."* *"Do we have to provide documentation for that?" "It's impossible for our agency to accomplish that."* *"Does any other agency do that?" "I didn't know what you meant or what you wanted."* *"When did that become part of the program?" "Well, we plan to implement that next year . . . so can we get credit for it now?"*

Based on those comments, we feel it is important for Risk Management to re-establish that the Contribution Discount Program is not a *mandatory* program; state entities are not penalized for not participating or qualifying for a discount. Nevertheless, it is Risk Management's goal and we are dedicated to see that as many entities as possible achieve the full 10% discount. It is a benefit to both Risk Management and your entity to accomplish this goal as it indicates a strong,

effective loss control program. However, in order for the State's loss control efforts to be truly successful and effective, it must be implemented with a positive approach, and understanding and belief of its principles. To that end, the Risk Management Division personnel are more than willing to work with you to ensure your entity's loss control program is effective and meets the discount criteria.

Included in this Bulletin is a revised Risk Management Fund Contribution Discount Program Application (SFN 53424). This form will also be posted on our web site. For the most part, you'll see that the questions on the application have been expanded to provide more detail and clarification. The exception is #9, which is entirely new to the discount program – but not a new loss control tool. If you have questions about a specific revision or change, contact our office for assistance.

We also would like to notify you of several changes going into effect with the review process itself. At the time of the next application review, there will be significantly less inquiry and follow-up from Risk Management on producing the discount criteria and documentation. The documentation specifically required within the application must be submitted with the application. If it is not, credit will not be given. There will likely still be some follow-up questions and inquiries from Risk Management, which may include a request for further documentation. However, we will no longer be making multiple requests to obtain information and documentation from the entities.

We again stress the expediency of using your entity's Loss Control Committee meeting minutes to document compliance with the Discount criteria. We have updated the Schedule for Portions of the Quarterly Loss Control Committee meetings to assist you with that process. Since the deadline for compliance is May 1, if you haven't implemented this process for this year, we suggest you address the July and October topics immediately so that you will be on track in January to complete the criteria by May 1. Working together we can make this process less cumbersome and beneficial to everyone involved.



## Loss Control Tools

### A Clear Path to Snow & Ice Removal

Society is becoming more and more litigious. People want money and/or are suing for all kinds of accidents, and slip and falls are no exception. It is up to the grounds maintenance personnel to prove that they have done what was reasonable and prudent in protecting people walking or driving on that site. The type of questions that will be asked include: whether you keep consistent records of incoming calls giving notice of slippery conditions; documentation of the amount and types of ice-control products you use; transcription of who plowed what locations; and listings of who cleared what sidewalks and when.

The best way to provide this proof is through keeping good records. With incomplete records, the defense of a slip and fall claim/lawsuit (claim) can become very costly, not to mention the hidden costs of personnel time. Of course, without documentation, a claim may not be defensible at all.

This documentation must be consistent and verifiable as having been performed as a normal part of your daily functions. All staff must be educated about the importance of performing what seems to be the mundane task of documentation. Remember, attorneys love to find inconsistencies in routine that can allow them to cast doubt on performance and credibility.

In case of liability problems, your department should have the following records in written form:

- Policy Statement
- Log of the weather, include temperature and precipitation
- Log of call out procedures
- Record of the amount of materials used
- Review of any accident reports
- Record of safety training
- Record of field safety inspections

Part of your documentation should include tactics and strategy. Have you planned your winter activities; do you have appropriate materials available in the right places and in

the correct amount; have employees been trained in its use?

Another critical issue is the *quality* of information available to you. What is the basis for your information? All the sensors, weather reports, truck data and other information out there today is only useful if it helps you make decisions. It's worth considering conducting an information audit to see what decisions you currently make in your winter operations, and what information helps you to make those decisions well. We are all bombarded with information these days, and while you may not be able to get rid of all the information, you can at least concentrate on what will help you the most.

There are many weather forecasts available to you. There are typical media forecasts: the TV and radio, including The Weather Channel. There are special forecast providers, contract forecasters, if you will. There are folks who live "up storm" from you — in the path of any likely storm to hit your area of responsibility. There are RWIS (Road Weather Information System) sites, some of which are likely to be a few miles away from you and the information from which may be accessible to you. All of these are available to you, and if you tried to keep track of them all, you'd spend so much time doing so that you would never plow any snow at all. What should you concentrate on? Do you have access to knowledge of —

1. When will the storm start?
2. What type(s) of precipitation will there be?
3. How much total precipitation can we expect?
4. How long will it last?
5. What is the surface temperature?

Plan now on how you will address those winter storms. Record-keeping procedures such as those described herein seems burdensome and time consuming. However, if you are *not* keeping accurate and consistent records of your winter maintenance activities, you are leaving yourself and your entity empty-handed for defense of a claim or lawsuit.

Sources: Allin, John. "Paying attention to details." Grounds Maintenance 01 Jan. 1999; Powell, Tracy. "Slippery Liability." Grounds Maintenance 01 Oct. 2003; and Nixon, Wilfrid A. "Snow-How." Grounds Maintenance 01 Jan. 2004

## RMWCP UPDATE



Derek Watkins, Manager, RMWCP

### DESIGNATED MEDICAL PROVIDER

As discussed at our annual Risk Management Seminar, a list of your employees who have opted for a different medical provider than was chosen for your area was due in our office by July 14, 2004. Several agencies have not yet complied with this request. I am giving a second chance to those agencies to get the information in. ***FAILURE TO PROVIDE OUR OFFICE WITH THIS INFORMATION BY NOVEMBER 1, 2004 WILL HAVE A NEGATIVE EFFECT ON THE DISCOUNT PERCENTAGE THAT YOUR AGENCY WILL RECEIVE FOR 04/05.*** Should you have any questions on this requirement please do not hesitate to contact our office.

### ERGONOMIC ASSESSMENTS

We now have a new process in place for those agencies who request an ergonomic assessment for their employees. On our website, in the workers compensation section, you will find a questionnaire designed to assist us in scheduling these assessments. Please have the questionnaire completed by the employee and his or her supervisor, forward it to our office, and we will contact you to schedule the assessment.

### FLEXTRAINING UPDATE

We do have new courses waiting to go on line to assist you in meeting your training requirements. However, due to numerous problems with incorrect information being input into the system during initial registration we are holding off taking the courses online until the new version of FlexTraining arrives from the company. The update is expected in early November and will allow employees to correct their registration information themselves. This will allow for accurate tracking of those employees who have completed courses.

### INJURY NOTIFICATION

There has been some concern about the 24 hour reporting requirement for injuries. The reporting requirement does not always have to be met by the filing of a workers compensation claim. The notification can be met by the filing of an incident report. To avoid delay, the incident report should be faxed to our office before being routed internally. Another option could be initial notification by e-mail with a follow up of an incident report. *Reminder* - When filling out the workers compensation claim form please be sure to include the name of the medical provider the injured worker received treatment from.

### DISCOUNT, DIVIDEND, AND DMP SAVINGS

The implementation of these three programs has resulted in savings for fiscal year '05 to state agencies in the amount of \$702,174. A breakdown shows \$462,693 from the 15% discount program, \$219,881 from the dividend program, and \$19,600 in deductible savings from the DMP program.

Remember, for fiscal year '05 the \$250 deductible will be waived when the occupational medicine designated medical provider is used.

Risk Management Division  
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**CHECK IT OUT!!**

Please check your address label.  
Report any corrections to our office.

**BULLETIN**



## *Update*

Web site :  
[www.state.nd.us/cog](http://www.state.nd.us/cog)

Between June and September, sixteen Refresher Sessions dealing with issues and changes to the Living Disaster Recovery Planning System and Continuity of Operations Plan were held. These sessions were attended by 68 agencies.

Plans are in various stages of development with some agencies in the process of finishing while others are just getting started. Janell has been working with agencies to review their plan after they have developed it to ensure they are on the right track. Please feel free to contact Janell Quinlan, ND COG/COOP Project Manager at 701-328-8104 or [jquinlan@state.nd.us](mailto:jquinlan@state.nd.us) to assist in reviewing your work.

Remember the deadline is November 30, 2004 to have your plan submitted to the Continuum of Government Team.

### **Electronic version of the Bulletin**



The Risk Management Bulletin is now also available in an electronic format via e-mail. Contact Renae Heller at [rheller@state.nd.us](mailto:rheller@state.nd.us) to order the Bulletin electronically. Remember to route the e-mail or paper copy to all appropriate employees.

### *Risk Management Division Website Features*

Visit our website at [www.state.nd.us/risk/](http://www.state.nd.us/risk/) for standard and updated features including:

- ◆ Personnel e-mail and telephone directory
- ◆ Risk Management Manual
- ◆ Reporting Forms (following page 3.5-1 of the manual)
  - \* Incident Report (SFN 50508)
  - \* Notice of Claim (SFN 50552)
  - \* Motor Vehicle Accident Report (SFN 51301)
  - \* Destruction Hold Notice (SFN 52376)
- ◆ Facility Audit and Inspection Checklists (Page 4.3-1)
- ◆ Emergency and Disaster Procedures (Pages 4.5-1 through 4.6-5)
- ◆ Facility Use Agreement Form (Page 5.2-2)
- ◆ Waiver Forms (Pages 5.2-3 & 4)
- ◆ Risk Management Bulletins
- ◆ Discount Application Forms
  - \* RM Fund (SFN 53424)
  - \* RMWCF (SFN 53425)
  - \* Designated Medical Provider (SFN 53758)